

Meeting of 2000-12-5 Regular Meeting

MINUTES
RESCHEDULED REGULAR MEETING
LAWTON CITY COUNCIL
DECEMBER 5, 2000 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Cecil E. Powell, Also Present:
Presiding Gary Jackson, Assistant City Manager
 John Vincent, City Attorney
 Brenda Smith, City Clerk
 LTC Anthony Puckett, Fort Sill Liaison

The meeting was called to order at 6:14 p.m. by Mayor Powell. Notice of meeting and agenda were posted on the City Hall notice board as required by State Law.

ROLL CALL

PRESENT: G. Wayne Smith, Ward One
 James Hanna, Ward Two
 Glenn Devine, Ward Three
 John Purcell, Ward Four
 Robert Shanklin, Ward Five
 Barbara Moeller, Ward Six
 Stanley Haywood, Ward Seven
 Michael Baxter, Ward Eight

ABSENT: None.

AUDIENCE PARTICIPATION: None.

BUSINESS ITEMS:

1. Hold a public hearing to consider the renaming of SW C Avenue between South Railroad Street to SW 11th Street, to SW Main Street, and provide direction on preparation of a resolution for Council consideration. Exhibits: Location Map; Letter from Robert Hutchins, Lawton Novelty Company; Letter from Michael Mayhall.

Baxter said he brought the item up and asked to have a public hearing on it; he was approached by some individuals to try to create a Main Street by the City's 100th anniversary on August 6, 2001. He said he polled some people that he did not know in public places as far as which street they felt Main Street was, and 41 out of 100 people told him they thought C Avenue was Main Street, and that was why he requested the item be on the agenda and why the public hearing was being held.

Shanklin said he is on this as an initiator and on October 24, the Council passed, eight to zero, to hold a hearing on C Avenue to be renamed Main. He said there was a staff error in the agenda that was passed out last Friday saying Baxter and Shanklin were the initiators, and it should have been the City Council. Shanklin said on Monday he read in the paper where he had made some remarks that he had not made, he never uttered anything that was in that newspaper Monday morning, and it prompted about a dozen mad dog calls from citizens in Ward 5, not the citizens he had canvassed in the last 30 days as to how they felt on renaming C Avenue. He said he was talking about people his age or older in Ward 5 and he had not had one that wanted this done, so he had to go with these wishes. Shanklin said he does not support it and he was sorry the newspaper said he did.

Purcell said he would like to ask questions that someone may be able to address during the public hearing. He asked if the reason to have a Main Street was to receive some type of funding. Baxter said there is an outside chance we can get some federal money and/or state money through a Main Street Association, and it would probably be a matching system but it would help on restoration of sidewalks and maybe some antique lighting to help restore the downtown area.

Purcell said he supported trying to get money, and in anticipation of tonight, he called both the U.S. Department of

Commerce and the Oklahoma Department of Commerce, and there are funds available through the Main Street Program, but there is absolutely no reason you have to have a street called Main Street. He said there is no requirement for any street to be named Main Street. Baxter asked if \$100,000 is granted, which street would it be used for. Purcell said it does not have to be called Main Street, you can tell them you want to put it on C Avenue or wherever you want to do it, but the street does not have to be named Main Street, and Council could decide, when they apply for the grant, where the money would be used and how.

Purcell said he had never been in a city where Main Street was not the dividing line between north, south, east or west, and it would be confusing to have C Avenue as Main Street because it is three blocks into the south part of the city, and it is not a dividing line in any manner. He asked for input in this regard during the public hearing.

Baxter said in reference to Shanklin's comments, he talked to Shanklin who said he would co-initiate the item because it was in Shanklin's ward, and those words came straight out of Shanklin's mouth. He said Shanklin can sit over there and retract them if he wanted, but he would tell Shanklin and everyone else what Shanklin told him. Shanklin said we did that October 24th, the Council voted to have a public hearing eight to zero. Shanklin said he did not vote to approve the change to Main Street and he had told Baxter the horror stories that came out of S 11th Street and Baxter ignored them. Shanklin said he had completed what he said he would do, the public hearing is here and they did not have to initiate it. Shanklin said he did not initiate it and he told no one to imitate it, that came through Mr. Bigham.

Mayor Powell said he had a letter encouraging this to happen from Bruce Lefebvre, one from an attorney saying if it should happen that it should simply be Main Street and not SE Main Street because there is nothing that would be southeast, and all of the other letters he had in his hand were letters from various and sundry citizens in the Lawton-Fort Sill community, and some are in the audience this evening that request that it remain as it is named C Avenue. He said he received another one today from the McMahan Authority saying they voted unanimously to oppose the proposed name change for SW C Avenue, signed by Dr. Charles Graybill, M.D., Retired. Mayor Powell said he had received those in office, as well as receiving phone calls as late as today, and he had told Council the ones that were positive and the ones that said leave it alone, and that was all he had to offer at this time.

PUBLIC HEARING OPENED.

Mayor Powell asked to hear two from the group wanting to leave it as it and two from the ones in favor of naming it Main Street, and the points could be brought in that manner, but if not, that could be extended.

Jason Monroe, 2205 NW 19th Street, said his office is at 501 C in the old Security Bank building. He said when you talk about changing street names you do not think about people who have businesses on those streets that have to change their stationery, business cards and envelopes and pocket calendars and everything else. Monroe said there is no reason to change C Street, it has been that way forever and what in the world would you want to change it for. He asked if Council did not have more things to do than nitpick about something as petty as this. The remaining remarks were inaudible.

Mayor Powell said from this point forward, please state your reason and not chastise the Council.

John Mackey, 312 Ridgeview Way, said he is one of the owners of the building at the corner of 5th and C Avenue. He said he was quoted in the newspaper, Kim McConnell called him Friday before he had even heard about this, and he was thinking out loud as far as the good and bad about this idea, and he did mention a couple of things like it might bring some attention to downtown and then he listed about 1,000 reasons why it was a bad idea, but the positive things were quoted. Mackey said he talked to the reporter this morning and he was not misquoted but it was not all listed.

Mackey said he had talked to many, many people about this and he was downtown all the time. He said Danny Wigington told him he was shown in federal data bases with the current address. Mackey said he had wills for the last nearly 30 years that say C Avenue, and all of the deeds they had sent out over the years, and everything had this address and the Post Master will not forward it forever, and this is just not a good idea. He said he appreciated people trying to think of good things to do for Lawton and he wanted to do that also, but he did not think this was a good idea. Mackey said Mr. Hutchins had presented a long list of reasons not to make this change and it is just too big of a list of things that would have to be changed. He said it should not be done if there is not a real good reason to do it. Mackey said this may have been good because it got everyone to think about where they are and why they want to stay the way they are. He said he believed about everyone present would respectfully ask the Council to not change the name and to leave it as C Avenue.

Mayor Powell said he appreciated Mackey's remarks being made in a professional manner.

Joe Pazorek, CPA at 1008 C Avenue, expressed his opposition to the name change for many of the reasons Mackey just stated. He said he and his firm deal with the Internal Revenue Service and the Oklahoma Tax Commission and correspond with them constantly. Pazorek said if the street name is changed and the Post Office does not deliver a

60-day letter or 30-day letter, he would have a liability and exposure for his clients; if he does not respond in time and the deadlines lapse, then his clients could sue him for any penalties and interest. He said to update all of his records with the Internal Revenue and Tax Commission would be a timely and costly process. Pazorek said he is a registered representative with an investment firm and there are hundreds of address changes he would have to file, not to mention the other investment firms on C Avenue that would have to go through the same process. He said there are tons of paperwork and time that would have to be expended for which he would not be compensated and they are getting ready to enter the busy season and he did not have time to deal with paperwork that is useless. Pazorek said he had done polling also and had not found anyone on C Avenue that supported the change, although he had not talked to everyone. He asked Council to really consider not just the dollar outlay but the potential liability that his firm, and probably the law firms also, would have on notification. Pazorek said heirs may come to town 20 years later looking for an attorney who prepared a will, and the address on the will would say C Avenue but it would no longer be there, and there is a possibility of a loss of clients for them also. He asked that this be considered seriously and diligently and do what is right, and in his opinion, it would be to not change the name.

Mayor Powell said they had heard from those asking that it be left as it is; he asked if anyone was present to speak in favor of changing the name to Main Street. There were none.

PUBLIC HEARING CLOSED.

MOVED by Purcell, SECOND by Smith, that we not change C Avenue.

Purcell said he thought Baxter had a good idea to pursue trying to get federal and state funds to do things downtown on C Avenue, if that is the chosen location, and that should be pursued although it is not part of the motion.

VOTE ON MOTION: AYE: Baxter, Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

2. Hold a public hearing and consider an ordinance changing the zoning from Planned Unit Development to R-1 (Single-Family Dwelling District) zoning classification with a Planned Unit Development overlay district located at Mark Edward Drive and Pamela Lane. Exhibits: Ordinance 00-46; Location Map; Application; Draft CPC Minutes.

Bob Bigham, City Planner, presented a viewgraph map showing the proposed rezoning location. He said this is a 5.346 acre tract located southwest of Southwestern Hospital, 52nd and Lee is on the east. The Planning Commission held a public hearing on November 9, no one appeared to speak against this and Planning Commission and staff recommend approval of the request.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Devine, SECOND by Haywood, to approve Ordinance 00-46, waive reading of the ordinance, read the title only.

(Title read by Clerk) Ordinance 00-46

An ordinance changing the zoning classification of the tract of land which is hereinafter more particularly described in Section One hereof from the existing classification of PUD (Planned Unit Development) to R-1 (Single-Family Dwelling District) zoning classification with a Planned Unit Development Overlay District; authorizing changes to be made upon the Official Zoning Map in accordance with this ordinance.

VOTE ON MOTION: AYE: Smith, Hanna, Devine, Purcell, Moeller, Haywood, Baxter. NAY: None. OUT: Shanklin. MOTION CARRIED.

3. Consider adopting a Council resolution in support of the current application by Great Plains Improvement Foundation to the Oklahoma Housing Finance Agency for Low Income Housing Tax Credits to help fund the production of a 56 unit low income housing project at 2602 SW Sheridan Road in Lawton. Exhibits: Resolution 00-114; Request letter from GPIF.

MOVED by Smith, SECOND by Haywood, to approve Resolution 00-114. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith. NAY: None. MOTION CARRIED.

(Title only) Resolution 00-114

A resolution supporting an award by the Oklahoma Housing Finance Agency for low income housing tax credits to the Great Plains Improvement Foundation, Inc., Community Action Agency.

4. Consider adopting a resolution supporting the upcoming Comanche County sales tax election. Exhibits: Resolution 00-115.

Shanklin said he requested this item and this cent sales tax is for three years, county-wide, and it is to generate funds to help create economic development through the CCIDA, which is the Comanche County Industrial Authority that has nine members and the chairman is the esteemed Dr. Charles Kelsey, DVM. He said their success has been touted over the years, no one will handle those funds but the CCIDA so we do not have to worry about those funds running off.

Shanklin said if you live in Lawton or Comanche County, you are invested in our future. He said our sales tax is flat, Fort Sill is down, rentals are terrible and sales are the same. Shanklin said we are trying to get out of a low-income and minimum wage town category, and to do so, we must entice industry to come to Lawton.

Shanklin said any senior citizen who does not have a combined income of \$16,000, if you live in Ward 5, he would personally take them to the water department so they could fill out paperwork that could save them around \$160 per year, and that would offset any burden that could be caused to them because of this tax. He urged Council and voters consider this tax because Lawton would not be able to compete with other towns that have funds to attract industrial prospects. Shanklin said this tax would generate \$5 million and it would be under the charge of the CCIDA, chaired by Dr. Charles Kelsey.

Purcell said he attended three meetings of the steering committee and there were businessmen at each meeting and they seemed to support this tax, they all understood the need for it. He said the briefing last Tuesday night showed how many jobs had been brought in through the CCIDA and Chamber of Commerce, as well as how much had been spent here on facilities. Purcell said CCIDA is out of money and if a new industry wants to come to town, there is no money, so if we do not do this, we are at a stand still. He said he supported it and urged its passage.

MOVED by Purcell, SECOND by Shanklin, to adopt Resolution 00-115 supporting the upcoming Comanche County cent sales tax to be voted on a week from today.

Moeller said she could not support this for several reasons. She said the CCIDA is a wonderful organization and it has done some very good work. Moeller said the County Commissioners have not come out with a resolution of support, and she felt it was improper for the Lawton City Council to endorse a tax so strongly that will be levied on the residents of the county and the other communities that are outside of Lawton's jurisdiction. She said she encouraged people to get out and vote, whether they wanted it or not is their choice. Moeller said to keep in mind who is campaigning for it, keep in mind who is paying for it, keep in mind where the money will be used, and get out and vote.

Mayor Powell said he would like to address one or two of those things, and he knew who was paying for it and it is a group of individuals through donations paying for every penny of this as far as the advertising and those kind of things; it is not any entity of any kind whatsoever and he knew that personally. He said there is a paper trail on that and it is wide open for the people to see and it is a matter of public record. Moeller asked where it is a public record. Mayor Powell said he would tell Moeller exactly where it is after this meeting. Moeller said she thought people needed to know.

Haywood asked Moeller if she said the County Commissioners were not supporting this. Moeller said no, she did not say that. Moeller said the report this morning in the paper showed the County Commissioners were asked about it and were quoted as saying it was a community group asking for the funds and that they wished to pay for the election, and that was all the Chairman of the County Commissioners said about it. Haywood said he thought the County Commissioners were in support of it. Moeller said they may be supportive but they had not come out with a resolution, and if the County does not come out with one, why should the City.

Smith said he would be remiss if he did not speak up at this point. He said Lawton, through its aggressive seeking of jobs, has produced a tremendous amount of jobs out in the county; county-wide, everyone benefits from Lawton's aggressive seeking of businesses. Smith said he would urge everyone to vote for it and support it, and he would vote for it and support it.

Shanklin said Lawton is somewhere around 80,000 and the county is around 40,000 in population, and this is a joint effort to try to get us out of the low-income spectrum. He said he could not see anything degrading or derogatory about it, and the county probably did not think about doing this, but we have done this in the past and it shows that at least a certain percentage of the Council is trying to move Lawton forward, and if you do not want to move Lawton forward, why did you come down here to serve; you should not even be here if you do not want to move Lawton forward. Baxter said he did not come here to raise sales taxes of people on fixed incomes. Shanklin asked if others had come forth with any program and to tell us how to do it. Moeller said she did and he did not listen.

Moeller said she saw the programs also, and some of the figures were inflated, some of the jobs that were counted were not here, if the economy continues to turn down there is a chance they cannot get here and that is no fault of anyone's. She said that happened with Marquardt and it can happen again until they get on the ground, so we

should not count our eggs before they are laid. Shanklin said Moeller was against us and Moeller said she was for the citizens of Lawton. Haywood said he and his ward support this. Moeller said she just wanted people to get out and vote.

VOTE ON MOTION: AYE: Purcell, Shanklin, Haywood, Smith, Hanna. NAY: Devine, Moeller, Baxter. MOTION CARRIED.

(Title only) Resolution 00-115

A resolution supporting the County one-quarter () cent sales tax election on December 12, 2000.

5. Consider authorizing the Lawton Metropolitan Area Planning Commission (LMAPC) acting as the Metropolitan Planning Organization (MPO) for transportation planning grants and activities to apply for Congestion Mitigation Air Quality (CMAQ) funds to implement an air quality campaign. Exhibits: Budget.

Shanklin said he did not understand why it takes another person, we have hired more people and more people and more people, and he would bring the Norman budget showing we are 70 employees more than they are and they claim a 95,000 population. He said he would not support it, he was tired of it and it would be another \$70,000 to \$80,000.

Deborah Jones, Assistant Planning Director, said we are confronted with adhering to a new federal law passed in 1990 dealing with air quality, the ozone; standards were established and the community is monitored each ozone season. She said Lawton can apply for funds to assist in an air quality campaign under the CMAQ program, which is administered by ODOT, a budget was prepared for an air quality campaign to be run locally. Jones said this has been done through a part-time position at ASCOG and it was suggested to us that we would like to run it from within the City of Lawton rather than using ASCOG, therefore, the figures were prepared.

Purcell said the information shows that LMAPC will pay \$3,100 and Council Contingency, if this is approved, would pay \$10,715 in salary. Jones agreed. Purcell said the \$55,000 remaining would come from a grant, and this would be for year one; he asked how much the City would have to pay in year two and if it would be the whole amount. Jones said no, we would apply for the grant again and we can also charge it off to PL funds, which is an 80-20 split. Purcell asked if you can keep getting grants year in and year out for this. Jones said yes, and because it is an annual grant, if you do not receive funding, you can decrease your employment.

Mayor Powell asked what you can charge it off to. Jones said PL funds are planning grant funds from the Federal Highway Division; this year the Planning Department had three planners and we will earn \$188,000 in the grant and she hoped to apply for \$200,000 grant funding in next year's budget because we are coming on line in transit, so we are trying to bring in to the planning budget a large amount of federal highway fund, transit funds, and ODOT funds to supplement the general fund expenditure.

Purcell said if we get the funds the first year, we can hire someone, and if we do not get the matching funds the second year, we would terminate that employee. Jones agreed. Purcell said the next item is to hire another employee to do something similar. Jones said no, it is the same employee; it is for one additional employee. Jones said the LMAPC acts as the MPO and they wanted Council to authorize the LMAPC to apply for the funds because they are the ones that can apply. Jones said they also apply for the PL funds and get the \$188,000 she just mentioned; the second commentary is the actual employment issue and it is for the same, one person.

Shanklin asked if this person now works for the City of Lawton. Jones said no. Shanklin asked if this person would be hired outside the City of Lawton. Jones said she could not say. Shanklin asked if we are going to go get someone down in the ranks who is sweeping floors or driving the sweeper and bring them up there and give them OJT. Jones said no, we have a job description for a planner and if they meet, internally, that job description, if they have a master's degree or equivalent of experience and education, we could hire someone internally, yes, however, historically, we have never done that. Shanklin said he did not believe it. Mayor Powell said we are on number five, and this is simply the plan and not to hire another individual. Shanklin said he wanted to see the job description and if someone is qualified for this, he would be happy to do it.

MOVED by Moeller, SECOND by Baxter, to authorize the LMAPC, acting as the MPO, to apply for the CMAQ funds to implement an air quality program. AYE: Purcell, Moeller, Haywood, Baxter, Smith, Hanna, Devine. NAY: Shanklin. MOTION CARRIED.

6. Consider approving the employment of one (1) Transportation Planner to assist in implementation of an air quality campaign and other transportation planning projects authorized under the 1990 Air Quality Act and the Transportation Equity Act of the 21st Century (TEA21). Exhibits: Memo from Principal Planner; Lawton's Ozone Readings; Estimated Budget and Tasks.

Jones said this issue would be the employment of one additional transportation planner to assist us both in transportation planning and an air quality campaign.

Smith asked if the job description was what was listed on page 30 of the agenda folder for the budget portion. Jones said no, the job description is in the personnel office and it is the current job description for a Planner II, a transportation planner.

Hanna asked if you do not get the funds, do you have to hire this individual. Jones said if we do not get the funds, we will not hire the individual. Hanna asked if we do get the funds and they run out, can we terminate the employee without question and Jones said yes. Moeller asked how long it would take to apply and get the funds. Jones said we would apply directly to the Secretary of Transportation, and we have been assured that right after the first of the year they would look at this application; they have quite a bit of money at ODOT for Tulsa, Oklahoma City and Lawton for this purpose.

MOVED by Purcell, SECOND by Baxter, to approve the employment of one transportation planner to assist in the implementation of an annual air quality control campaign and other transportation planning projects authorized under the 1990 Air Quality Act and TEA21. AYE: Moeller, Haywood, Baxter, Smith, Hanna, Devine, Purcell. NAY: Shanklin. MOTION CARRIED.

During roll call, Shanklin said he would not vote for it until he could be told it would be an outside hire and all we are doing is creating more bureaucracy and he could not do it and Council could tell the taxpayer about it and hoped it came back to haunt them.

7. Consider authorizing staff to pursue grant or other funding for renovation of the municipal pool and development of an in-door, in-line hockey facility. Exhibits: Descriptions.

Gary Salva, Parks & Recreation Director, said Parks & Recreation wished to continue to pursue the priorities of the five-year strategic plan, and this item seeks permission to pursue grant funds for the renovation of the municipal swimming pool and the construction of an in-line hockey facility. He said if a lease agreement can be arranged through Fort Sill, the site for the in-line hockey facility would be at Fort Sill at an inside hangar.

MOVED by Moeller, SECOND by Devine, to authorize staff to pursue grant or other funding for the renovation of the municipal pool and development of an in-door, in-line hockey facility. AYE: Moeller, Haywood, Baxter, Smith, Hanna, Devine, Purcell, Shanklin. NAY: None. MOTION CARRIED.

8. Consider approving staff to seek grant monies to restore the "Prairie Flower" sculpture at McMahan Memorial Auditorium. Exhibits: None. (Application on file)

MOVED by Baxter, SECOND by Purcell, to approve staff to seek grant monies to restore the "Prairie Flower" sculpture. AYE: Haywood, Baxter, Smith, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: None. MOTION CARRIED.

Addendum: 1. Consider approving the record plat for Wyatt Acres Addition, Part 12, and accepting the improvements, escrow agreements in lieu of completed improvements, maintenance bonds, and easements outside the platted area. Exhibits: Plat Map. (Escrow agreements, maintenance bonds, and easements on file in City Clerk's Office)

Bob Bigham, City Planner, said this is a straight forward item as shown and asked if there were questions.

MOVED by Smith, SECOND by Baxter, to approve the record plat for Wyatt Acres Addition, Part 12, and accept the improvements, escrow agreements in lieu of completed improvements, maintenance bonds, and easements outside the platted area. AYE: Baxter, Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

CONSENT AGENDA:

ITEMS 9, 10 AND 11 WERE CONSIDERED SEPARATELY AS SHOWN BELOW.

12. Consider awarding a construction contract for the NW 23rd/26th Street Sewerline Upgrade (Phase I) 99-10 SSES Wastewater Pollution Control Facilities Clean Water SRF Project No. ORF-98-015CW to Jim Mayes Company, Inc. in the amount of \$312,498.20. Exhibits: Bid Tabulation of November 28, 2000. Action: Approval.

13. Consider acknowledging receipt of permits from the Oklahoma State Department of Environmental Quality for the construction of sanitary sewer and water lines with appurtenances to serve Wyatt Acres, Part 12. Exhibits: None. Action: Approval.

14. Consider acknowledging receipt of permit for the construction of a waterline and appurtenances from the Oklahoma State Department of Environmental Quality to serve the Greer Park Water Line Extension Project, City

of Lawton, Comanche County, Oklahoma. Exhibits: Map. Action: Approval.

15. Consider entering into contracts with: Mr. & Mrs. Anthony Traylor, Mr. William Miracle and Ms. Brenda Deasy for fire protection outside the Lawton City limits, and authorize the Mayor and City Clerk to execute the contracts. Exhibits: None. Action: Approval.

16. Consider approval of payroll for the period of November 27 through December 10, 2000. Action: Approval.

Vincent asked that the Householder claim in Item 10 be shown as James and Phyllis, instead of James and Elizabeth. Haywood asked for separate consideration of Item 10. Devine asked to comment on Items 9 and 10. Purcell asked for separate consideration of Item 11.

MOVED by Smith, SECOND by Baxter, to approve the Consent Agenda items as recommended with the exception of Items 9, 10 and 11. AYE: Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter. NAY: None. MOTION CARRIED.

9. Consider the following damage claim recommended for denial: Harold and Lisa Saunders. Exhibits: Legal Opinion/Recommendation.

Devine said he had talked with Jerry Ihler and Mr. Jackson and Mr. Vincent about bringing to Council to see how they would feel about passing or figuring out some way or another that they could allow, and again it is something they need to think about because there is kind of a legal standpoint in there of trying to use City money spent on private property, there is a device called a backwater valve that goes into the sewer line of low-lying houses where they are prone to sewer backups. He said these items are very inexpensive, normally the cost on them is around \$200 to \$300. Devine said on the claims, the amounts are \$370, \$5,500 and \$18,000; if we could come up with something, and he would like for Council to think about it and get their opinion of whether they should pursue this and try to get something for Council to look at. He said Mr. Vincent feels there is way we can do this because we could use it as part of the claims that have been filed against us, and if this thing would work, and it does work, if these were installed where these people continuously have problems, these sewers backing up and flooding their houses, the backwater valve would stop the sewer from going into the house. Devine said it would discharge outside but that is ten times better than getting in people's carpets and living areas and putting them in distress for a long length of time, it is something they should consider and he wanted Council to see if they would like to pursue this.

Jackson said staff had looked at the item and the device Devine was speaking of is an approved plumbing device, it has a BOCA number and it is a legitimate item.

MOVED by Devine, SECOND by Hanna, to deny the claim listed in Item 9. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith. NAY: None. MOTION CARRIED.

10. Consider the following damage claims recommended for approval and consider passage of any resolutions authorizing the City Attorney to file friendly suits for claims which are over \$400.00: Philip Muse; Donald and Colleen Patterson; James P. and Elizabeth Householder; and Glen and Maria Girone. Exhibits: Legal Opinions/Recommendations (Resolution Nos. 00-116, 00-117- and 00-118 are on file)

Haywood said Philip Muse was present to speak on his claim regarding damage to his vehicle.

Philip Muse, 1310 SW Jefferson, said he was on his way to work and a City vehicle cut him off, and to avoid being hit by the truck, he hit the curb with his car and made a claim with the City. He said he has a little car, it was kind of beat up already, but there was damage done on the front end and bumper and it was knocked out of alignment, so he filed a claim with the City and all the attorneys wanted to pay him was \$32.50 for alignment.

Vincent said we are not questioning liability, the question here is the amount of damages and we have pictures of the vehicle to show the Council. He said he disputed the fact that there was any additional front end damage based on the condition of the vehicle at the time and we are willing to recommend a new front end alignment. Mayor Powell asked how much we were willing to pay Muse. Vincent said \$32.50 was the estimate on the front end alignment. Mayor Powell asked where you can get that done for that amount. Hedy Jackson, Assistant City Attorney, said the City Attorney's office got three estimates for a front end alignment on a 1991 Hyundai and one was \$44.11 and the low one was \$32.50. Mayor Powell asked why they were given a picture of the back end of the car and how that was relevant to this case. Vincent said it is showing the general condition of the car. Ms. Jackson said Mr. Muse presented them a copy of a repair bill and the only mechanical repair was the alignment.

Shanklin asked if we are saying that we did cut him off. Ms. Jackson said the driver of the City truck said he did believe that he might have gone over the yellow line a little bit, he did not know a car was there. Shanklin asked if we did not want to fix it because of the general condition of the vehicle. Ms. Jackson said if we are liable for the damages, we are only liable for the alignment. Shanklin asked if the vehicle was hit other than hitting the curb.

Muse said the truck moved over into his lane and he had to stop to avoid getting run over and he hit the curb in the process and the truck kept going, and he had to chase the employee down. Shanklin said regardless of the condition of the car, and if we admit to that, we should align his vehicle. Ms. Jackson said Muse was claiming \$863.45. Muse said he took the car to Jim Lien to see if there was any more damage done other than where he hit the curb, and he did not have time to stop and look because the employee ran and he had to chase him from 11th and F all the way to 8th Street before he stopped.

Ms. Jackson said she had a copy of Muse's estimates showing the damage was a scratch on the bumper and alignment, as far as mechanical. Muse said there is a black plastic guard that goes under the car and when it hit the curb, it ripped that, and he did not know what all happened, but it was damaged so he went to a professional and got an estimate. Muse said the car was currently under repair at a body shop and it was almost completely done, except the guy doing the work had to have back surgery so he was driving it until he could get back and finish it. Shanklin asked if Muse was having it repaired now. Muse said he was waiting on the body shop man. Mayor Powell asked if anything had been done on the car and Muse said no, nothing had been done since he hit the curb.

Mayor Powell said we have an estimate from Muse for \$863.45 and one from the City for \$32.50 and that is a big gap. Ms. Jackson submitted Muse's estimate and said we are saying that we are probably only responsible for an alignment from where he hit the curb.

Purcell said from the pictures it appeared the front bumper had damage that had been there before, and the condition of the car is not that great and he would support getting the car realigned, but he could not support buying a new bumper and front end. Mayor Powell said he felt both estimates were out of line. Ms. Jackson said they obtained three estimates and Ms. Bagwell recommended the low estimate on the alignment.

MOVED by Devine, SECOND by Purcell, to approve the amount of \$32.50 to have the front end alignment on the gentleman's car.

Devine said if Muse wanted to pursue the other \$800, he could go to small claims court.

Haywood said if the City vehicle forced Muse off the road and he hit the curb, and maybe his car was not in the condition you would want it in and he was going to restore the vehicle and get it painted, but if it pulled the rubber off from under the bumper, that should be looked at. Haywood asked what the cost would be for that work and Muse said he did not know. Shanklin suggested estimates be brought back showing repairs for what may have happened because he was looking at all kinds of things on that vehicle and there should be a compromise somewhere.

SUBSTITUTE MOTION by Haywood, to table this to the first meeting in January.

Devine said he was not trying to beat the man out of anything and he was asking to pay the claim. He said it was not the Council's place to be body experts and the man should have more if he was entitled to it, but it was not Council's place to make a judgment on the damages, they are not mechanics and could not see what could have happened and that was the reason he mentioned small claims court.

Vincent said in line with Haywood's motion to table, tonight was the first time he had heard the air deflector/splash guard was knocked off the bottom of the car, and he was not aware that a 1991 Hyundai had one of those and he did not recall seeing it on the estimate. He said he believed the City would be responsible only for the alignment but they could look further at the estimate.

SECOND TO SUBSTITUTE MOTION was made by Shanklin.

VOTE ON SUBSTITUTE MOTION TO TABLE: AYE: Purcell, Shanklin, Moeller, Haywood, Baxter, Smith. NAY: Devine, Hanna. SUBSTITUTE MOTION CARRIED.

MOVED by Smith, SECOND by Moeller, to approve the remaining claims as shown in Item 10. AYE: Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine. NAY: None. MOTION CARRIED.

(Title only) Resolution 00-116

A resolution authorizing and directing the City Attorney to assist Donald E. and Colleen Patterson in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the reduced amount of Five Thousand Five Hundred Dollars and No Cents (\$5,500.00).

(Title only) Resolution 00-117

A resolution authorizing and directing the City Attorney to assist James P. and Phyllis Householder in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of One Thousand Four Hundred Forty-Five Dollars and

Fifty-Four Cents (\$1,445.54).

(Title only) Resolution 00-118

A resolution authorizing and directing the City Attorney to assist Glenn and Maria Girone in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing and directing the City Attorney to confess judgment therein in the reduced amount of Thirty-Nine Thousand Eight Hundred Seventy-Nine Dollars and Forty Cents (\$39,879.40).

11. Consider approving the record plat for Pebble Creek Addition, Part 2C, and accepting the improvements, escrow in lieu of completed improvements, maintenance bonds, and easements outside the platted area. Exhibits: Plat Map.

Purcell said Ward 4 had two major development areas in the last two months where people are getting ready to build houses, and after the rains came, the water ran off, the mud ran off into back yards and alleyways, and people who are living there now are getting flooded out because the mud has washed down and water cannot run through. He said there is a major problem in the area of erosion control, and what bothered him on this one was accepting an escrow agreement in lieu of completed improvements in the amount of \$375 for erosion control. Purcell said Ihler knew the areas he was speaking about, and there is no way that \$375 could fix the erosion control so the number should be much higher. Shanklin asked if he was speaking of the ones on the hill. Purcell said they are built up a little bit, the rains come and all of the mud washes down into everyone's back yards and \$375 escrow for erosion will not do much to remedy the problem. Purcell said they are fighting about two of them right now and they cannot get anyone to do anything. Purcell asked that this be tabled and come back with a better amount of how much we are going to put into escrow for erosion control.

MOVED by Purcell, SECOND by Baxter, to table until the first meeting in January. AYE: Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine, Purcell. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER.

Baxter said the whole idea of having a public hearing is to find out how people feel about things and they sure let us know.

Moeller encouraged citizens to visit the Library, which had been improved and was very user friendly.

Haywood said MS (Ret) Clement Washington passed away and he had served as President of the Ranch Oaks Improvement Association for a number of years and he would be greatly missed.

Shanklin asked when we would be talking about 82nd and Cache Road on the collapsed sewer or water main. He said he was just telling them without naming it. Vincent asked if he was talking about a storm drain and Shanklin said yes. Mayor Powell said it is not 82nd. Shanklin said if it is not ready, that is fine; it was in there for two years and it has collapsed. Shanklin said his point was, did we inspect it and if we inspected it, when we uncover it does the inspection show it was put in like it showed on the cross section; are we going to try to spend \$150,000 of our taxpayers' money. Ihler said we contacted the contractor and the manufacturer of the pipe and we are trying to determine if it was improper installation or a defect in the pipe. Shanklin asked if we had uncovered it to see whether or not it was actually compacted and had the sand and gravel in place. Ihler said it was uncovered and the entire process was televised, to include the inside of the pipe. Shanklin asked Vincent if he knew what he was talking about and if they needed to talk about it now. Vincent said he had not received any reports but was aware we had a major stormwater drainage collapse in the Wyatt Acres area, it is a 42 inch pipe and Ihler is doing an investigation to provide him information, and that has not been received yet.

Devine said he was under the weather last Tuesday. Smith said he was also under the weather last Tuesday.

Jackson said there were speed limit signs on Gore Boulevard around the Boulevard of Lights. He said this afternoon he issued a temporary speed limit change which would put the 25 mph speed limit in effect from 6 p.m. to 6 a.m. only, and it will remain at 40 mph during 6 a.m. to 6 p.m. each day, and the temporary change will be in effect until January 1.

Jackson said bids were opened this afternoon for improvement to McMahon Auditorium, and Dr. Graybill and Jim Wood visited with him today in that regard. The bids will be on the next agenda with a recommendation for award.

Purcell said two meetings ago the Council approved parking signs at Pioneer Park School. He said a big meeting was held there last Thursday night with some of the parents, staff and Mr. Beauchamp from Lawton Public Schools, and they are going to build some parking lots. Purcell said he will bring an item to Council; signs were put up on the east side in front of the building but the signs on the west side for no parking, stopping or standing did not go up because they would have caused even more problems. He said action had to be taken and the item will be returned to negate that portion of the resolution on those parking signs.

Shanklin asked Vincent if they were entitled to know the job description on those two positions they would be hiring. Vincent said you are certainly entitled to any job description we have. Shanklin asked if they were entitled to know where the employee comes from. Vincent said certainly. Shanklin said he wanted to see it.

There being no further business to consider, the meeting adjourned at 7:20 p.m. upon motion, second and roll call vote.